

08 CV 1910

**STIPULATION OF SETTLEMENT
BY AND BETWEEN
TEAMSTERS LOCAL 445 CONSTRUCTION DIVISION WELFARE
AND
PENSION FUNDS AND TEAMSTERS LOCAL EDUCATION AND TRAINING FUND
AND
DORIGUZZI EXCAVATING, INC.
AND
MARIO PETER DORIGUZZI, INDIVIDUALLY
DATED JULY __, 2008**

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that whereas no party hereto is an infant, an incompetent person for whom a committee has been appointed or conservatee, that as and between

Teamsters Local 445 Construction Division Welfare and Pension Funds and Teamsters Local Education and Training Fund by an authorized representative and/or agent (hereinafter "Local 445"), by and through their attorneys, Sapir & Frumkin, LLP with a business address at 339 Knollwood Road, Suite 310, White Plains, New York 10603, and

Doriguzzi Excavating, Inc. (hereinafter "Doriguzzi"), by the President, Mario Peter Doriguzzi, with a business address at 60 North Serven Street, Pearl River, New York 10965, and

Mario Peter Doriguzzi, individually, with a residence address at 60 North Serven Street, Pearl River, New York 10965,

with regard to delinquent contribution payments and late charges assessed on the delinquent payments as set forth below, that the parties agree that this matter be settled according to the following terms:

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1. PAST DUE CONTRIBUTIONS: Local 445 requires payment from Doriguzzi for monies due for Doriguzzi's employee, Robert Tate Doriguzzi, past due contributions for the weeks ending October 2, 2004, October 10, 2004, October 17, 2004, October 24, 2004, October 31, 2004, November 7, 2004, November 14, 2007, November 21, 2004, November 28, 2004, December 5, 2004, December 12, 2004, December 19, 2004, December 26, 2004, January 9, 2005, January 16, 2005, January 23, 2005, January 30, 2005, February 6, 2005, February 13, 2005, May 8, 2005, May 15, 2005, May 22, 2005, May 29, 2005, June 5, 2005, June 12, 2005, June 19, 2005, July 3, 2005, July 10, 2005, July 17, 2005, July 24, 2005 and July 31, 2005 in the sum of Five Hundred Ninety-Six and 00/100 (\$596.00) Dollars per week for a combined total of EIGHTEEN THOUSAND FOUR HUNDRED SEVENTY-SIX AND 00/100 (\$18,476.00) DOLLARS; The Local acknowledges payment has previously been received by the Local by payments totaling the amount of SIX THOUSAND FIVE HUNDRED FIFTY FIVE AND 60/100 (\$6,555.60) DOLLARS for the October, 2004 through December 31, 2004 time period; therefore, the Local gives Doriguzzi a credit for said amount herein;
2. LATE FEES: Local 445 requires payment of late charges from Doriguzzi for employee Robert Tate Doriguzzi for the weeks ending October 3, 2004, October 10, 2004, October 24, 2004, October 31, 2004, November 7, 2004, November 14, 2007, November 21, 2004, November 28, 2004, December 5, 2004, December 12, 2004, December

19, 2004, December 26, 2004, January 9, 2005, January 16, 2005, January 23, 2005, January 30, 2005, February 6, 2005, February 13, 2005, May 8, 2005, May 15, 2005, May 22, 2005, May 29, 2005, June 5, 2005, June 12, 2005, June 19, 2005, July 3, 2005, July 10, 2005, July 17, 2005, July 24, 2005 and July 31, 2005 in the sum of Fifty-Nine and 60/100 (\$59.60) Dollars per week for a combined total of ONE THOUSAND EIGHT HUNDRED FORTY-SEVEN AND 60/100 (\$1,847.60) DOLLARS;

3. Furthermore, the Local acknowledges that the payment of late fees for the period of October 2004 through December 31, 2004 has been received pursuant to a Stipulation of Settlement dated January 18, 2007 by and between the parties herein, and such Settlement erroneously overcharged Doriguzzi the sum of SIX HUNDRED FIFTY FIVE AND 60/100 (\$655.60) DOLLARS; therefore, the Local gives Doriguzzi a credit for said amount by and through this Stipulation;
4. The parties hereby agree that no contributions are sought for the weeks ending January 2, 2005, February 20, 2005, February 27, 2005, March 6, 2005, March 13, 2005, March 20, 2005, March 27, 2005, April 3, 2005, April 10, 2005, April 17, 2005, April 24, 2005 and May 1, 2005 as Local 445 herein sets forth that it will not pursue claims against Doriguzzi for benefit contributions and late charges for that period of time and as Doriguzzi sets forth that no contributions for the weeks ending listed in this paragraph are due and owing;

5. For the periods set forth herein, the payment schedule for the Past Due Contribution Payments totaling ELEVEN THOUSAND NINE HUNDRED TWENTY AND 40/100 (\$11,920.40) plus the Late Charges totaling ONE THOUSAND EIGHT HUNDRED FORTY SEVEN AND 60/100 (\$1,847.60) DOLLARS less the credited amount of SIX HUNDRED FIFTY FIVE AND 60/100 (\$655.60) DOLLARS for a total due to Local 445 of THIRTEEN THOUSAND ONE HUNDRED TWELVE AND 40/100 (\$13,112.40) DOLLARS will be paid by Doriguzzi Excavating, Inc. as follows:

PAYMENT NUMBER	PAYMENT DATE:	PAYMENT AMOUNT:
1	September 15, 2008	\$ 728.47
2	October 15, 2008	\$ 728.47
3	November 15, 2008	\$ 728.47
4	December 15, 2008	\$ 728.47
5	January 15, 2009	\$ 728.47
6	February 15, 2009	\$ 728.47
7	March 15, 2009	\$ 728.47
8	April 15, 2009	\$ 728.47
9	May 15, 2009	\$ 728.47
10	June 15, 2009	\$ 728.47
11	July 15, 2009	\$ 728.47
12	August 15, 2009	\$ 728.47
13	September 15, 2009	\$ 728.47
14	October 15, 2009	\$ 728.47
15	November 15, 2009	\$ 728.47
16	December 15, 2009	\$ 728.47

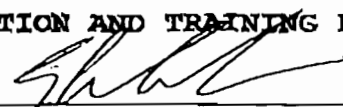
17	January 15, 2010	\$ 728.47
18	February 15, 2010	\$ 728.41
	Payment amounts totaling:	\$13,112.40

6. Doriguzzi Excavating, Inc. shall make checks or money orders payable to "Sapir & Frumkin, LLP as attorneys for Local 445 Benefit Fund" and mail them to: Sapir & Frumkin, LLP, 399 Knollwood Road, Suite 310, White Plains, New York 10603 so that they arrive at that location by the due date shown on the above referenced payment schedule.
7. In the event that Doriguzzi Excavating, Inc. does not make the scheduled payments as shown hereinabove, the parties hereby agree that the original Affidavit for Confession of Judgment of Doriguzzi Excavating, Inc. executed by Mario Peter Doriguzzi, President, and Mario Peter Doriguzzi, Individually, held by Sapir & Frumkin LLP may be filed in the Office of the Rockland County Clerk. (A copy of the Affidavit for Confession of Judgment of Doriguzzi Excavating, Inc. and Mario Peter Doriguzzi, individually, is annexed hereto as Exhibit "A").
8. Upon final payment by Doriguzzi Excavating, Inc., the parties hereby agree that the original Affidavit for Confession of Judgment of Doriguzzi Excavating, Inc. executed by Mario Peter Doriguzzi, President, and Mario Peter Doriguzzi, Individually, held by Sapir & Frumkin LLP shall be returned to O'Connell & Riley, Esqs. within two (2) weeks of the date of payment.

9. Final payment under the above referenced payment schedule is subject to change based upon the actual payment history but in any event final payment shall be paid by February 15, 2010.

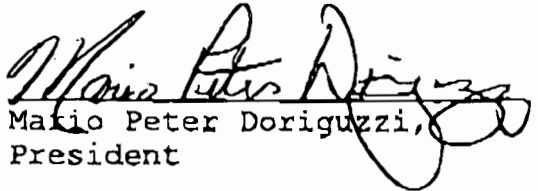
Dated: White Plains, New York
July 21, 2008

TEAMSTERS LOCAL 445 CONSTRUCTION
DIVISION WELFARE AND PENSION
FUNDS AND TEAMSTERS LOCAL
EDUCATION AND TRAINING FUND

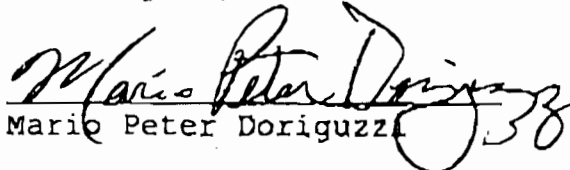
By: 
Scott R. Abraham, Esq.
as Attorney for Local 445
Sapir & Frumkin, LLP
339 Knollwood Road
Suite 310
White Plains, New York 10603

Dated: Pearl River, New York
July 29, 2008

DORIGUZZI EXCAVATING, INC.
60 NORTH SERVEN STREET
PEARL RIVER, NEW YORK 10965

By: 
Mario Peter Doriguzzi,
President


Dated: Pearl River, New York
July 29, 2008

By: 
Mario Peter Doriguzzi

TO: Scott R. Abraham, Esq.
Sapir & Frumkin, LLP
Attorneys for Local 445
339 Knollwood Road
Suite 310
White Plains, New York 10603
914-328-0366

Denise A. Sullivan, Esq.
O'Connell & Riley
Attorneys for Doriguzzi
144 E. Central Ave.
P.O. Box 1050
Pearl River, New York 10965
845-735-5050

So Ordered.


7/30/08